IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.598 of 2006

Mallicka ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Perambalur District,
Perambalur. .. Respondents

Petition under Article 226 of the Constitution of India for t issuance of a Writ of Habeas Corpus to call for the records of t second respondent herein in Cr.M.P.No.15 of 2006 dated 27.04.2006 a set aside the order of detention and direct the respondents to produ the detenue Rukkumani @ Kaippillai, wife of Ramalingam, before th Court and release her forthwith from custody, who is now confined Special Prison for Women, Tiruchirapalli.

For Petitioner : Mr.G.R.Swaminathan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

WEB COPY

O R D E R

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner, who is the daughter-in-law of the detenue by na Rukkumani @ Kaippillai, who is detained as a ''Bootlegger" contemplated under the Tamil Nadu Prevention of Dangerous Activities Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traff Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act of 1982), by the impugned detention order dated 27.04.2006, challeng the same in this Petition.

https://hcservices.ecourts.gov.in/hcservices/

2. Heard learned counsel for the petitioner as well as the learn Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitt that the detention order is liable to be quashed on the ground non application of mind on the part of the detaining authority. Whi elaborating the above contention, it is pointed out that the arre memo, which is available at page 34 is containing crime No.22/20 on the file of the Sub Inspector of Police, Kuvagam. According to t learned counsel, the accused was arrested at 09.30 a.m. on 01.04.20 and the same is also clear from the First Information Report, which available at pages 27 and 28. If that is so, as rightly pointed o by the learned counsel for the petitioner, the crime number could n have found place in the arrest memo, which was prepared at the time arrest at 9.30a.m. In fact the FIR makes it clear that, after t arrest of the accused at 9.30 a.m. along with contraband, the S Inspector of Police, Kuvagam Police Station at 10.30 a.m. registered case in Crime No.22/2006 under Sections 4(1)(i) read with 4(1-A) TNP Act and Section 328 IPC. This discrepancy was not noticed by t detaining authority and as rightly pointed out by the learned couns for the petitioner, the detention order was passed mechanically witho satisfying himself. On this ground, the detention order is liable be quashed and accordingly, the same is quashed.

4. The Habeas Corpus Petition is allowed and the impugned order detention is set aside. The detenue is directed to be set at liber forthwith from the custody unless she is required in some other case cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Perambalur District, Perambalur.

3. The Superintendent, Central Prison for women, Thiruchirappalli.
(In duplicate for communication to detenue)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 CC TO MR.G.R. SWAMINATHAN, ADVOCATE (SR NO 37651)

HCP. No.598 of 2006

PLI(CO)

BP 22.08.2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/